
HOUSE BILL No. 1200

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-6-9.6; IC 36-8-6-9.7; IC 36-8-7-12.2; IC 36-8-7-12.3.

Synopsis: Police and fire surviving spouse benefits. Increases to 35% of the monthly pay of a first class police officer or firefighter the minimum surviving spouse benefit for the 1925 police pension fund and 1937 firefighters' pension fund.

Effective: July 1, 2003.

Kromkowski, Cochran

January 8, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1200

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-6-9.6, AS ADDED BY P.L.118-2000,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 9.6. (a) This section applies to an active or retired
4 member who dies other than in the line of duty (as defined in section
5 10.1 of this chapter).
6 (b) A payment shall be made to the surviving spouse of a deceased
7 member in an amount fixed by ordinance, but at least an amount equal
8 to the following:
9 (1) To the surviving spouse of a member who died before January
10 1, 1989, an amount equal to ~~thirty~~ **thirty-five** percent (~~30%~~
11 **(35%)**) of the monthly pay of a first class patrolman per month
12 during the surviving spouse's life if the spouse did not remarry
13 before September 1, 1983. If the spouse remarried before
14 September 1, 1983, and benefits ceased on the date of remarriage,
15 the benefits for the surviving spouse shall be reinstated on July 1,
16 1997, and continue during the life of the surviving spouse.
17 (2) Except as otherwise provided in this subdivision, to the



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1 surviving spouse of a member who dies after December 31, 1988,
 2 an amount per month, during the spouse's life, equal to the greater
 3 of:

4 (A) ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of the monthly pay
 5 of a first class patrolman; or

6 (B) fifty-five percent (55%) of the monthly benefit the
 7 deceased member was receiving or was entitled to receive on
 8 the date of the member's death.

9 However, if the deceased member was not entitled to a benefit
 10 because the member had not completed twenty (20) years of
 11 service, for purposes of computing the amount under clause (B),
 12 the member's benefit shall be considered to be fifty percent (50%)
 13 of the monthly salary of a first class patrolman. The amount
 14 provided in this subdivision is subject to adjustment as provided
 15 in subsection (e).

16 (c) Except as otherwise provided in this subsection, a payment shall
 17 also be made to each child of a deceased member less than eighteen
 18 (18) years of age, in an amount fixed by ordinance, but at least an
 19 amount equal to twenty percent (20%) of the monthly pay of a first
 20 class patrolman per month:

21 (1) until the child becomes eighteen (18) years of age;

22 (2) until the child becomes twenty-three (23) years of age if the
 23 child is enrolled in and regularly attending a secondary school or
 24 is a full-time student at an accredited college or university; or

25 (3) during the entire period of the child's physical or mental
 26 disability;

27 whichever period is longer. However, the total of benefits under this
 28 subsection added to the benefits under subsection (b) may not exceed
 29 the maximum benefits computed under section 9 of this chapter for
 30 pension payments to a member who retires from active service after
 31 twenty (20) years or more of active service. This maximum benefit is
 32 equal to fifty percent (50%) of the salary of a first class patrolman in
 33 the police department plus, for a member who retired before January
 34 1, 1986, two percent (2%) of the first class patrolman's salary for each
 35 year of service of the retired member over twenty (20) years or, for a
 36 member who retires after December 31, 1985, plus one percent (1%)
 37 of the first class patrolman's salary for each six (6) months of service
 38 of the retired member over twenty (20) years. However, the maximum
 39 benefit may not exceed in any year an amount greater than seventy-four
 40 percent (74%) of the salary of a first class patrolman.

41 (d) Except as otherwise provided in this subsection, if a deceased
 42 member leaves no surviving spouse and no child who qualifies for

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benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

SECTION 2. IC 36-8-6-9.7, AS ADDED BY P.L.118-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.7. (a) This section applies to a member who died in the line of duty (as defined in section 10.1 of this chapter) before September 1, 1982.

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this

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subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

SECTION 3. IC 36-8-7-12.2, AS ADDED BY P.L.118-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.2. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 12.4 of this chapter).

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

- (1) a surviving spouse;
- (2) a child or children less than eighteen (18) years of age;
- (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or

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(4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school; or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service or after retirement:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than:

(A) for the surviving spouse of a member who dies before January 1, 1989, ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(B) for the surviving spouse of a member who dies after December 31, 1988, except as otherwise provided in this clause, an amount per month, during the spouse's life, equal to the greater of ~~thirty~~ **thirty-five** percent (~~30%~~) (**35%**) of the monthly pay of a first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased); however, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the second amount under this item, the member's

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benefit is considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

SECTION 4. IC 36-8-7-12.3, AS ADDED BY P.L.118-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.3. (a) This section applies to a member who died in the line of duty (as defined in section 12.4 of this chapter) before September 1, 1982.

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

(1) a surviving spouse;

(2) a child or children less than eighteen (18) years of age;

(3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or

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(4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school; or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children of the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than ~~thirty~~ **thirty-five** percent ~~(30%)~~ **(35%)** of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically

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1 incapacitated, is not a ward of the state, and is not receiving a benefit
2 under subdivision (2)(B), the child is entitled to receive the same
3 amount as is paid to the surviving spouse of a deceased firefighter as
4 long as the mental or physical incapacity continues. A sum paid for the
5 benefit of a child or children shall be paid to the remaining parent, if
6 alive, as long as the child or children reside with and are supported by
7 the parent. If the parent dies, the sum shall be paid to the lawful
8 guardian of the child or children.

9 (e) The monthly pension payable to a survivor may not be reduced
10 below the amount of the first full monthly pension received by that
11 person.

12 (f) A benefit payable under this section shall be paid in not less than
13 twelve (12) monthly installments.

14 SECTION 5. [EFFECTIVE JULY 1, 2003] **IC 36-8-6-9.6,**
15 **IC 36-8-6-9.7, IC 36-8-7-12.2, and IC 36-8-7-12.3, all as amended**
16 **by this act, apply only to benefits payable after June 30, 2003.**

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